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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ANDREAS FLECK, HENNING KANZOW,  
CLAUS-LUDER MAHNKEN, SIEGMAR GEBHARDT,  
ANTOINE ISHAK, MARKO SCHLEICHER,  
REINHOLD MOSES, THOMAS BALTES,  
and REINHARD TEVES

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Appeal 2016-000199  
Application 13/110,149  
Technology Center 1700

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Before: LINDA M. GAUDETTE, AVELYN M. ROSS, and  
JENNIFER R. GUPTA, *Administrative Patent Judges*.

ROSS, *Administrative Patent Judge*.

DECISION ON APPEAL<sup>1</sup>

Appellants<sup>2</sup> appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–7, 10–19, and 22–29. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> In our Decision below we refer to the Specification filed July 18, 2011 (Spec.), the Final Office Action mailed November 11, 2014 (Final Act.), the Appeal Brief filed April 9, 2015 (Appeal Br.), the Examiner's Answer mailed August 10, 2015 (Ans.), and the Reply Brief filed September 17, 2015 (Reply Br.).

<sup>2</sup> Appellants identify the real party in interest as ContiTech Antriebssysteme GmbH, the assignee of the instant application. Appeal Br. 2.

## STATEMENT OF CASE

The claims are directed to an article, and method for producing an article, having an elastic foundational body and textile ply where “the textile cover ply includes a mesh construction which permits the passage of the vulcanizate to the textile surface” and where “there is embedded a coating mass which together with the vulcanizate appears at the textile surface to form a textile-vulcanizate-coating hybrid system.” Spec. 3–4. Claim 1, reproduced below (emphasis added), is illustrative of the claimed subject matter:

1. An article having an elastic foundational body based on a vulcanizate having a wear-susceptible article surface which is provided with a textile cover ply, wherein the textile cover ply includes a mesh construction, which permits the passage of the vulcanizate to the textile surface to form a textile-vulcanizate hybrid system,

wherein the vulcanizate fraction at the textile surface is controllable via the mesh count, mesh size and thread construction of the textile cover ply,

*wherein between the foundational body and the textile cover ply there is embedded a coating mass which together with the vulcanizate appears at the textile surface to form a textile-vulcanizate-coating hybrid system, and*

wherein the coating mass is a chemical- and/or oil-resistant polymer.

Claims Appendix at Appeal Br. 18.

## REJECTIONS

The Examiner maintains the rejection of claims 1–7, 10–19, and 22–29, under 35 U.S.C § 103(a), as being unpatentable over Knutson<sup>3</sup> in view of Baldovino.<sup>4</sup> Final Act. 2.

## OPINION

The Examiner rejects claims 1–7, 10–19, and 22–29 as obvious over Knutson and Baldovino. Final Act. 2. The Examiner finds that Knutson teaches “a belt comprising an open mesh textile fabric . . . [that] is impregnated with a vulcanizable elastomeric material.” *Id.* According to the Examiner, the vulcanizable elastomeric material of Knutson can be rubber or rubber in combination with other additives. *Id.* And, the Examiner finds that because Knutson teaches a mesh textile fabric where the openings permit penetration of the elastomer into the void, the “penetration of the elastomer is controlled by the textile structure (i.e., mesh count, mesh size, and thread construction).” *Id.* The Examiner similarly finds that Knutson “discloses the claimed method of making the belt including the steps of forming a vulcanizate, forming a belt backing, forming a textile cover ply with a mesh construction which enables the vulcanizable elastomer to penetrate the textile and vulcanizing to form an integrated structure.” *Id.* at 3. The Examiner acknowledges that Knutson fails to teach that the “outer face of the belt comprises a combination of the elastomeric material and a coating such as chemical and/or oil resistant polymer,” but

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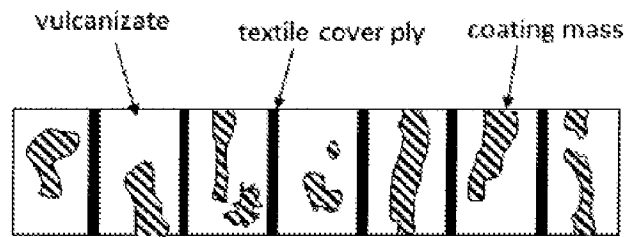
<sup>3</sup> Paul S. Knutson, US 6,572,505 B1, issued June 3, 2003 (“Knutson”).

<sup>4</sup> Baldovino et al., US 2007/0240658 A1, published October 18, 2007 (“Baldovino”).

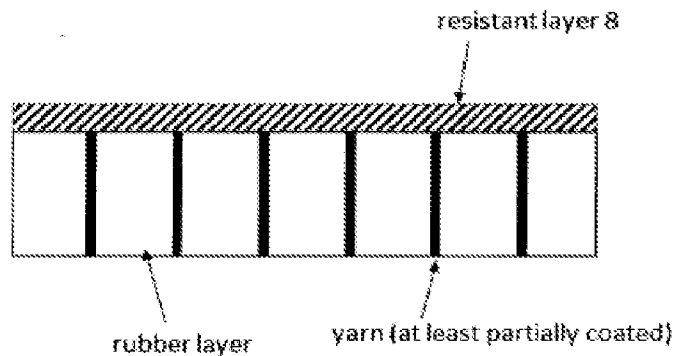
finds that Baldovino teaches “forming the outer layer of a belt so that it comprises a combination of the elastomeric material making up the body of the belt in combination with an oil and/or water resistant material such as a fluorine containing polymer.” *Id.* The Examiner reasons that it would have been obvious at the time of the invention “to have incorporated a portion of a fluoropolymer as taught by Baldovino into the elastomer making up the surface of the textile reinforcement in the belt of Knutson with the expectation that this would improve the wear resistance of the resulting belt.” *Id.*

Claims 1 and 3:

Appellants contend the Examiner’s findings are in error because neither Knutson nor Baldovino teach or suggest that “between the foundational body and the textile cover ply there is embedded a coating mass which together with the vulcanizate appears at the textile surface to form a textile-vulcanizate-coating hybrid system,” as required by claims 1 and 3. Appeal Br. 12. Rather, Appellants argue that the combination of Knutson and Baldovino “would entail covering an entire surface, including any mesh material that may be present at that surface, with the resistant layer 8 [of Baldovino]” as opposed to a “power transmission belt in which the fabric material of Baldovino et al and the resistant layer 8 are both present at the same surface of the belt.” *Id.* at 13. By way of illustration, Appellants provide drawings (reproduced below) to compare the claimed textile with the textile that would result from the combination of Knutson and Baldovino. *See* Reply Br. 3.



(Claimed Textile Structure)



(Structure of Knutson/Baldovino Combination)

*Id.* Appellants explain that Baldovino states that “the use of a resistant layer 8 above the layer of fabric 5” does not teach a resistant layer “interspersed with the elastomeric material.” *Id.* at 4. Appellants also urge that the benefits of Baldovino come from “a continuous outer layer” that prevents the belt from expanding due to contact with the oil. Appeal Br. 14 (citing Baldovino ¶ 15). Thus the “skilled artisan does not learn from Baldovino et al whether providing material of resistant layer 8 only within the meshes is sufficient to prevent the undesired expansion.” *Id.*

In response, the Examiner urges that “the claims do not recite that the combination of the resistant polymer and the elastomer is between the mesh and the foundational body, but only that between the foundational body and the textile ply there is embedded a coating mass which together with the

vulcanizate appears at the textile surface to form ma [sic] textile-vulcanizate-coating hybrid system.” Ans. 6. Thus, according to the Examiner, the combination of elements is not required to be between the mesh and the body. *Id.* The Examiner also asserts that “Knutson already teaches that the elastomeric material is within the meshes. By adding the fluoropolymer of Baldovino to the elastomer of Knutson the claimed structure wherein the combination of elastomer and fluoropolymer is within the meshes necessarily would result.” Ans. 5; *see also id.* at 6–7.

After consideration of the respective positions of Appellants and the Examiner, we agree with Appellants that the facts and reasons provided by the Examiner are insufficient to support a conclusion that the combination of Knutson and Baldovino suggests an article where “between the foundational body and the textile cover ply there is embedded a coating mass which together with the vulcanizate appears at the textile surface to form a textile-vulcanizate-coating hybrid system,” as recited in the claims. Specifically we find no teaching in Baldovino, and the Examiner points to none, that would suggest to the skilled artisan a solution where the coating mass (or resistant material of Baldovino) is *between* the body and textile mesh and *together* with the vulcanizate appears at the textile surface. Rather, Baldovino teaches that the resistant material is applied as a layer over the fabric coating. Baldovino Figure 1 and ¶¶ 35 (“resistant layer **8** positioned on the outside of the fabric **5**”), 40 (“an adhesive material can be placed between the coating fabric **5** and the resistant layer **8**”), 44 (“the use of a resistant layer **8** above the layer of fabric **5**”), and 62 (“the resistant layer **8** on the fabric **5**”). Moreover, the Examiner’s position that “Baldovino teaches adding the wear resistant fluoropolymer to the elastomer” would necessarily

result in the vulcanizate and coating mass between the mesh (Ans. 6; *see also* Final Act. 3), is not supported by Baldovino. Although Baldovino does teach that the resistant layer includes a fluorinated polymer and an elastomeric material, it does not teach—as Appellants note (Reply Br. 4)—that a fluoropolymer may be added to the main elastomeric material, i.e., the vulcanizate, making up the belt body. Baldovino ¶¶ 30 and 36. Nor does the Examiner provide a reason for making this proposed modification, that is, adding a fluoropolymer to the main elastomeric body. Therefore, on this record, we cannot sustain the Examiner’s rejection.

Claim 16:

Claim 16, similar to claims 1 and 3, is directed to a process for producing a drive belt. Claims Appendix at Appeal Br. 20–21. Appellants contend that the process step requiring “disposing a coating mass between the foundational body and the textile cover ply before the belt blank is finally vulcanized, the coating mass appearing together with the vulcanizate at the textile surface to form a textile-vulcanizate-coating hybrid system,” is not suggested by the combination of Knutson and Baldovino. Appeal Br. 16. Appellants argue that because “Baldovino . . . explicitly suggest[s] that the coating layer is applied on the side of the fabric layer 5 that is opposite to the elastomeric body 2[,] Baldovino et al fail[s] to suggest that the [coating mass] layer is applied between the elastomeric body 2 and the fabric layer 5.” *Id.* For the reasons discussed above for claims 1 and 3, we do not sustain the Examiner’s rejection of claim 16.

### CONCLUSION

The Examiner reversibly erred in rejecting claims 1–7, 10–19, and 22–29 as unpatentable under 35 U.S.C. § 103(a) over Knutson and Baldovino.

### DECISION

For the above reasons, the Examiner’s rejection of claims 1–7, 10–19, and 22–29 is reversed.

REVERSED